

NO. 90-8240

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 191

\* \* \* \* \*

DAVID E. RIGGINS, Petitioner

vs.

STATE OF NEVADA, Respondent

PETITION FOR WRIT OF CERTIORARI

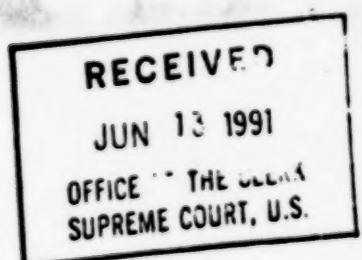
TO THE

SUPREME COURT OF THE STATE OF NEVADA

Respectfully submitted,

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QUESTION PRESENTED FOR REVIEW

Whether forced medication during trial violates a defendant's constitutional right to a full and fair trial.

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UNITED STATES CONSTITUTION

Fifth Amendment

Eighth Amendment

Fourteenth Amendment

1 NO. \_\_\_\_\_  
2

3 IN THE SUPREME COURT OF THE UNITED STATES  
4 OCTOBER TERM, 19\_\_\_\_\_  
5 \* \* \* \* \* \* \*  
6 DAVID E. RIGGINS, Petitioner  
7 VS.  
8 STATE OF NEVADA, Respondent  
9 PETITION FOR WRIT OF CERTIORARI  
10 TO THE  
11 SUPREME COURT OF THE STATE OF NEVADA

920 SOUTH 4TH STREET  
LAS VEGAS, NEVADA 89101-3505  
(702) 384-3505

12 David E. Riggins petitions for a Writ of Certiorari  
13 to review the judgment of the Supreme Court of Nevada.

14 OPINION BELOW

15 The Order of the Nevada Supreme Court is attached to  
16 this Petition as Exhibit "A".  
17

18 JURISDICTION

19 The Judgment of the Nevada Supreme Court was entered  
20 March 28, 1991 (Exhibit "A"). The Petition For Writ of  
21 Certiorari was filed within the statutorily prescribed time  
22 period after a Motion To Stay Remittitur pending a Writ of  
23 Certiorari was granted by the Nevada Supreme Court on April 15,  
24 1991 (Exhibit "B"). The Court also granted a motion extending  
25 the Stay until June 15, 1991 (Exhibit "C"). This Court's  
jurisdiction is invoked under 28 U.S.C. 1257(3).  
26  
27  
28

1           **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

2           1. The Fifth Amendment to the United States  
3           Constitution provides in relevant part:

4                 . . .nor shall any person be compelled in any criminal  
5           case to be a witness against himself, nor be deprived of life,  
6           liberty, or property without due process of law.

7           2. The Eighth Amendment to the United States  
8           Constitution demands that cruel and unusual punishment shall  
9           not be inflicted.

10          3. The Fourteenth Amendment to the United States  
11          Constitution provides in relevant part:

12                 . . .nor shall any State deprive any person of  
13           life, liberty, or property without due process of  
14           law; nor deny to any person within its jurisdiction  
15           the equal protection of the laws.

16           **STATEMENT OF CASE**

17          DAVID EDWARD RIGGINS was arrested on November 20,  
18          1987. Shortly after his arrest ~~he was~~ was medicated with 25  
19          milligrams of Mellaril per day under advisement of the prison  
20          psychiatrist. On December 14, 1987, Mace J. Yampolsky, Esq.,  
21          was appointed as Counsel for Defendant (ROA 277). DAVID  
22          RIGGINS was charged, by information filed April 5, 1988, with  
23          Robbery With Use of a Deadly Weapon, N.R.S. 200.380, N.R.S.  
24          193.165, and Murder with Use of a Deadly Weapon, N.R.S.  
25          200.010, N.R.S. 200.030, N.R.S. 193.265 (ROA 48). A  
26          Preliminary Hearing was held March 25, 1988 before the

1           Honorable Daniel E. Ahlstrom, Justice of the Peace (ROA 295).  
2           Defendant was bound over on two counts, Robbery with Use of a  
3           Deadly Weapon, and Murder with Use of a Deadly Weapon to  
4           District Court (ROA 399).

5           On January 20, February 17, 18, 19, 24 and March 9,  
6           1988, Defendant's Arraignment was held before the Honorable  
7           Judge James Brennan in the Clark County District Court (ROA  
8           47). On March 9, 1988, after being examined by three  
9           psychiatrists, defendant RIGGINS was found competent to stand  
10          trial. Dr. Jack Jurasky opined that defendant RIGGINS was  
11          incompetent, but Dr. William O'Gorman and Dr. Franklin Master  
12          decided DAVID RIGGINS was competent. He was being medicated  
13          with Mellaril at the time he was examined.

14          ATTORNEY AT LAW  
15          MACE J. YAMPOLSKY  
16          380 SOUTH 4TH STREET  
17          VEGAS, NEVADA 89101-0888  
18          (702) 384-0888  
19          A Motion for Individual Sequestered Voir Dire was  
20          filed on June 9, 1988, but was denied (ROA 52, 108). On June  
21          10, 1988, defense counsel submitted a notice of insanity  
22          defense. Also on June 10, 1988, a Motion to Terminate the  
23          Administration of Medication was filed, and denied, and an Ex  
24          Parte Motion to Allow Defendant to Wear Civilian Clothes During  
25          the Trial was filed, and granted (ROA 63). In addition, an Ex  
26          Parte Motion for an Order Appointing Co-Counsel was filed  
27          September 30, 1988, and was denied (ROA 124, 127).

28          A jury trial was held November 7, 8, 9, 14, and 15,  
29          1988 before the Honorable Judge James Brennan (ROA 512-919).  
30          Defendant RIGGINS was convicted of Robbery with Use of a Deadly  
31          Weapon, and Murder with Use of a Deadly Weapon (ROA 275). The  
32          penalty hearing was held November 16 and 17, 1988, and the jury

1 sentenced the Defendant to DEATH by lethal injection (ROA 276).  
2 Defendant RIGGINS was sentenced to DEATH by lethal injection  
3 for Murder with use of a Deadly Weapon. Defendant was further  
4 sentenced to fifteen years imprisonment for Robbery, and  
5 fifteen years imprisonment for the Use of Deadly Weapon. The  
6 two sentenced in Count I were ordered to run consecutively but  
7 concurrently to the sentence imposed in Count II (ROA 276).

8 The instant appeal is from the Defendant's judgment  
9 of conviction.

10  
11 STATEMENT OF FACTS

12 Early in the morning at 1:30 a.m. on Friday, the 20th  
13 of November, 1987, DAVID RIGGINS spoke to Paul Wade on the  
14 telephone to arrange a meeting to purchase some cocaine (ROA  
15 529). Soon thereafter, RIGGINS asked his roommate, Lowell  
16 Pendrey, if he could borrow Pendrey's car to go to a friend's  
17 house. Pendrey would not allow RIGGINS to borrow his car, but  
18 offered to provide transportation to the friend's house (ROA  
19 528). At approximately 2:00 a.m., RIGGINS and Pendrey drove to  
20 Paul Wade's apartment. RIGGINS went in alone, and left Pendrey  
21 waiting in the car (ROA 531). RIGGINS was in the apartment  
22 approximately 20 minutes, and returned to Pendrey's car with no  
23 change in his demeanor (ROA 534). Later that morning at  
24 approximately 3:00 a.m., Patricia Bezian, Paul Wade's  
25 girlfriend and roommate took her scheduled lunch break from  
26 work, and went home to find out why Wade was not answering the  
27 telephone (ROA 530). She found Wade lying on his stomach, dead

1 in a pool of blood (ROA 530). Paul Wade died of multiple cut  
2 and stab wounds to the head, trunk, and limbs (ROA 546). There  
3 were 32 stab wounds in all (ROA 533).

4 DAVID RIGGINS testified that he has been hearing  
5 voices since he was four years old, and that originally he  
6 thought they were aliens, but later found out from his minister  
7 that they were the devil, trying to possess his body (ROA 711).  
8 RIGGINS stated on the morning of the incident, he had gone over  
9 to Paul Wade's to buy some cocaine, and once inside the  
10 apartment, Wade began attacking RIGGINS with the knife. After  
11 Wade had been injured seriously, he told RIGGINS to leave and  
12 take his jacket with him (ROA 723).

13 RIGGINS stated that the homicide was justified  
14 because Wade had killed two little girls in the past, and had  
15 also tried to kill RIGGINS before by putting fiberglass in his  
16 water supply and by squirting his AIDS infected blood on  
17 cocaine before selling it to RIGGINS. Fiberglass in water to  
18 be used for shooting cocaine would cause blood clots and death  
19 (ROA 716, 723).

20 RIGGINS stated that he had been admitted to a mental  
21 institution six months prior to the incident, and had been  
22 given medication for his condition (ROA 740). RIGGINS stated  
23 that he was not on any prescription medications on the morning  
24 of the incident, but at trial was taking 800 milligrams of  
25 Mellaril per day (ROA 741).

1                   **REASONS FOR GRANTING THIS WRIT**

2                   This case is important to Petitioner because he was  
3                   medicated against his will which did not allow the jury to see  
4                   his "true" demeanor. As a result of the denial of his  
5                   constitutional rights he now faces death by lethal injection.

6                   The death penalty may not be imposed in an arbitrary  
7                   and capricious manner. Gregg v. Georgia, 428 U.S. 153, (1976).  
8                   Instead, the statutory scheme "must genuinely narrow the class  
9                   of persons eligible for the death penalty and must reasonably  
10                  justify the imposition of a more severe sentence on the  
11                  defendant compared to others found guilty of murder." Zant v.  
12                  Stephens, 462 U.S. 862, 877 (1983). The Court has allowed each  
13                  state to fashion its own statute as long as these general  
14                  principles are followed. See, Jurek v. Texas, 428 U.S. 262  
15                  (1976), Proffitt v. Florida, 428 U.S. 242 (1976).

16                   **AUTHORITIES AND ARGUMENT**

17                   **THE COURT'S REFUSAL OF DEFENDANT'S MOTION**  
18                   **TO TERMINATE THE ADMINISTRATION OF MEDICATION**  
19                   **VIOLATED DEFENDANT'S RIGHT TO A "FULL AND FAIR" TRAIL.**

20                   Prior to jury selection, defense counsel filed a Motion to  
21                  Terminate the Administration of Medication. Defendant RIGGINS  
22                  was under the influence of 800 milligrams of Mellaril per day.  
23                  Mellaril is an antipsychotic drug, one of four major classes of  
24                  psychotropic drugs used to treat mental illness. This

1                   medication violated DAVID RIGGINS' right to be free from bodily  
2                   restraint, and ultimately his right to a "full and fair" trial.  
3                   The medication denied DAVID RIGGINS the ability to assist in  
4                   his defense. His demeanor, appearance and attitude were  
5                   chemically cauterized and sanitized for the jury.

6                   This is a case of first impression in Nevada, therefore,  
7                   there is no applicable state case law on the subject. However,  
8                   there are several other jurisdictions that have ruled on the  
9                   subject.

10                  Several cases have held that an individual has a due  
11                  process right to freedom from arbitrary forcible administration  
12                  of chemical restraints. Youngberg v. Romeo 102 S.Ct. 2458  
13                  (1982), Large v. Superior Court 148 Ariz. 229, 714 P.2d 399,  
14                  U.S. v. Watson 893 F.2d 970 (8th Cir. 1990). The United States  
15                  Supreme Court in Youngberg v. Romeo, Id. at 2458, held that  
16                  liberty from bodily restraint as well as liberty from chemical  
17                  restraint, has always been recognized as the core liberty  
18                  protected by the Due Process Clause from arbitrary government  
19                  action. This interest survives criminal conviction and  
20                  incarceration. A similar decision was rendered in Large v.  
21                  Superior Court, Id. at 406, where the Supreme Court of Arizona  
22                  stated:

23                   "Notwithstanding his status as a convicted prisoner,  
24                  petitioner retains the right to due process protection  
25                  against arbitrary government action. Liberty from  
26                  arbitrary chemical restraint survives criminal conviction  
27                  and incarceration just as liberty from arbitrary bodily  
28                  restraint survives both civil and involuntary commitment."

Defendant RIGGINS should not have been forced to take  
medication against his will, as his freedom from chemical

restraint is protected by the Due Process Clause of the Fourteenth Amendment.

This court further stated:

"The medical nature of the procedure does not justify dispensing with due process requirements. The mere fact that a doctor authorized the forcible administration of the drugs is not conclusive. Due process requires that courts 'make certain' that proper professional judgment was 'in fact' exercised in the denial of a liberty interest."

Although the administration of Mellaril to defendant RIGGINS was authorized by a psychiatrist, this does not ameliorate the fact that he was denied a liberty interest provided to him by the Fourteenth Amendment.

There are also at least two separate Fifth Amendment violations present in a state's decision to compel one who is presenting an insanity defense to be medicated in order to stand trial. First, such medication and the altered demeanor that accompanies it compels the defendant to be the instrument of his own conviction, thus violating the privilege against self-incrimination. Second, by effectively mandating the presentation of this altered demeanor, the state considerably lightens its own burden at trial, violating the fundamental precept of our adversarial system of justice that the state must shoulder the burden of proving its case against the individual. Fentiman, *Whose Right is it Anyway?: Rethinking Competency to Stand Trial in Light of the Synthetically Sane Insanity Defendant*, 40 U. Miami L.Rev. 1161.

By forcing DAVID RIGGINS to be medicated in order to stand trial, the State of Nevada violated his privilege against self-

incrimination, while at the same time reduced its own burden to refute the insanity defense at trial.

An individual cannot be forcibly medicated with antipsychotic drugs unless he is a danger to himself or others, or unless there is an emergency situation. In Washington v. Harper 110 S.Ct. 1039 (1990), the U.S. Supreme Court held that, given the requirements of the prison environment, the Due Process Clause permits the state to treat a prison inmate who has a serious mental illness with antipsychotic drugs against his will, if the inmate is dangerous to himself or others and the treatment is in the inmate's medical interest. This is consistent with the decision of U.S. Court of Appeals in Bee v. Greaves 744 F.2d 1394 (1984), that due process requires that a qualified professional determine that the forcible administration of medication is, in his or her opinion, necessary to assure everyone's safety.

In the instant case the reason DAVID RIGGINS was medicated was never provided. He was medicated immediately after being taken into custody. There is no evidence defendant RIGGINS threatened to harm himself or anyone else. He appeared like a zombie to the jury throughout the entire trial.

Many courts have held that freedom from psychotropic medication is a right protected by the Due Process Clause of the Fourteenth Amendment. The United States Court of Appeals in U.S. v. Watson 893 F.2d 977 (8th Cir.), agreed with other courts that the substantive right to be free from unwanted bodily restraint includes the right to refuse psychotropic

medications. Defendant RIGGINS had the right to refuse the medication, and by disregarding his request, the State of Nevada violated his Due Process rights.

The Due Process Clause of the Fourteenth Amendment includes liberty interest in the right to privacy, including the right to make one's own decisions about fundamental matters, the rights to personal dignity and bodily integrity, and the right to communicate ideas freely. Bee v. Greaves 744 F.2d 1391 (1984). The decision whether to accept treatment with antipsychotic drugs is of sufficient importance to fall within the category of privacy interests protected by the Constitution. DAVID RIGGINS was refused this right to make decisions regarding his body. He requested that the administration of medication be discontinued, and his request was denied.

According to the United States Court of Appeals in U.S. v. Charters 829 F.2d 479 (4th Cir. 1987), the government may not force an unconsenting individual to hazard the present danger of antipsychotic medication upon a mere supposition that at some future time the individual may become dangerous. Furthermore, unless it is determined that, without medication, a patient presents an immediate threat of violence that cannot be avoided through the use of less restrictive alternatives, there is no justification for the intrusion into fundamental liberties that forcible medication represents. No other alternatives were ever offered to defendant RIGGINS. Upon arrest he was immediately medicated

with Mellaril and his dosages have been periodically increased, to the outrageous level of 800 milligrams of Mellaril per day.

If one is medicated throughout one's trial, while claiming an insanity defense, forcible medication of psychotropic drugs may alter one's demeanor in such a way that it would lead to misimpressions by the jurors. For instance, in U.S. v. Charters 829 F.2d 494 (4th Cir. 1987), the court held that if a defendant is heavily medicated during the trial, the jury may get a false impression of the defendant's mental state at the time of the crime. We believe that to be the case here. Defendant RIGGINS was medicated so heavily that he almost appeared comatose. Dr. Jack Jurasky, the defense psychiatrist, testified that DAVID RIGGINS consumed "enough Mellaril to tranquilize an elephant." (ROA 752).

Just as medication can create misimpressions about the defendant's insanity at the time of the crime, its effects can also cause other important misimpressions about the defendant's mental state. Two common side effects of antipsychotic drugs are akinesia which makes the defendant apathetic and unemotional, and akathisia which makes him agitated and restless. As a result, the jury may be misled by the demeanor of a defendant who appears not to care about the crime, the victim, or the proceedings or who appears overly anxious at particular moments.

Defendant RIGGINS exhibited akinesia. Throughout the

1 trial he appeared apathetic and unemotional. This had a  
2 powerful effect on the jury. This was a man on trial for  
3 violently murdering someone, who had stabbed someone  
4 repeatedly, and it appeared to the jurors that he just didn't  
5 care. This image would remain in the juror's minds and did  
6 not support his insanity defense. This obviously prejudiced  
7 DAVID RIGGINS.

8 Some courts hold that an instruction to the jury as to  
9 the effects of the medication the defendant is currently  
10 being administered reduces the problem of the jury not seeing  
11 the defendant's "true" demeanor. However, as held by the  
12 U.S. Court of Appeals in U.S. v. Charters 829 F.2d 494 n.20  
13 (4th Cir. 1987), a jury instruction cannot ameliorate the  
14 negative impact of antipsychotic drugs on a defendant's  
15 ability to consult with counsel. Although this type of  
16 instruction to the jury reduces the problem of the jury not  
17 seeing defendant RIGGINS' true demeanor, it still does not  
18 abolish any misimpressions or prejudices they may create  
19 about him.

20 The Supreme Court of Washington in Harper v. State 110  
21 Wash.2d 876, 759 P.2d 361 (1988) recognized that competent  
22 adults have a right to determine what shall be done to their  
23 bodies. This right should extend to DAVID RIGGINS as he was  
24 adjudicated (chemically) competent to stand trial. He should  
25 have been competent to make decisions regarding his own body,  
26 but he was deprived of that right.

27 The Supreme Court of Washington also held in State v.  
28

1 Murphy, 56 Wash.2d 761, 766-67, 355 P.2d 323, 327 (1960),  
2 "that a new trial be granted in the event of a showing by the  
3 accused, of a reasonable possibility that his attitude,  
4 appearance, and demeanor, as observed by the jury, have been  
5 substantially influenced or affected by circumstances over  
6 which he had no real control." A new trial should be granted  
7 in this case as well, because the amount of medication  
8 defendant RIGGINS was administered has been clearly  
9 demonstrated to have a tranquilizing effect, which altered  
10 his demeanor and appearance in front of the jury.

11 The courts of the state of Washington also ruled on this  
12 subject in State v. Maryott, where the court stated that:

13 "If the State may administer tranquilizers to a  
14 defendant who objects, the State then is, in effect,  
15 permitted to determine what the jury will see or will  
16 not see of the defendant's case by medically altering  
17 the attitude, appearance and demeanor of the defendant,  
18 when they are relevant to the jury's consideration of  
19 his mental condition." 6 Wash.App 96, 101, 492 P.2d 239,  
20 242 (1971).

21 The State of Nevada, by medicating DAVID RIGGINS against  
22 his will, altered his demeanor and determined what the jury  
23 would see. As a result, the State of Nevada permitted the  
24 jury to see defendant RIGGINS in his medicated state only.

25 The Maryott court also stated that, "when mental  
26 competence is at issue, the right to offer testimony involves  
27 more than mere verbalization. The demeanor in court of one  
28 who has raised the issue of sanity is of probative value to  
the trier of fact." Id. The jury in the instant case never  
saw DAVID RIGGINS in his "normal" undrugged condition.

Sanity was the only issue in the present case, and the triers

1 of fact only saw the defendant's altered demeanor.  
2 Consequently, they were never exposed to his insanity which  
3 eventually resulted in his receiving a DEATH sentence.

4 The Maryott court also stated that "it is difficult to  
5 see a legitimate state interest in imposing drugs on a  
6 defendant who asks to be free from them." Id. at 103, 492  
7 P.2d at 243. The court then went on to say that if  
8 controlling a possibly obstreperous defendant is the motive,  
9 two alternatives are suggested, "First, no control should be  
10 imposed until its need has been demonstrated. Second, the  
11 control which is imposed should insure an orderly trial with  
12 the least interference with a defendant's rights." Id.

13 In the present case, the court ignored both  
14 alternatives. No need was ever demonstrated for imposing the  
15 medication, and substantial interference with the defendant's  
16 rights occurred when the State inundated RIGGINS with "enough  
17 Mellaryl to tranquilize an elephant." (ROA 752).

18 The State administered 800 milligrams of Mellaryl per  
19 day during the trial against RIGGINS' will (ROA 740).  
20 Psychiatrist Jack Jurasky, an expert witness, testified that  
21 800 milligrams per day is enough to tranquilize an elephant  
22 (ROA 752). Courts have held that an accused may not be tried  
23 when he is so drugged, because he is in effect, not there at  
24 all. Pledger v. United States, 272 F.2d 69 (4th Cir. 1959).  
25 Defendant RIGGINS' eyes were open, but nobody was home.

26 The Supreme Court of Vermont remanded the case of In Re  
27 Prey 133 Vt. 253, 257-58, 336 A.2d 174, 177 (1975) for a new  
28

1 trial where the defendant had been heavily drugged during the  
2 trial, and it was held that "it may well have been necessary,  
3 in view of the critical nature of the issue, to expose the  
4 jury to the undrugged, unsedated Gary Prey, at least insofar  
5 as safety and trial progress might permit." The jury in the  
6 present case should have been exposed to the "undrugged,  
7 unsedated" DAVID RIGGINS as far as safety and trial progress  
8 would have permitted, especially since his defense was his  
9 insanity at the time of the offense.

10 The facts of Commonwealth v. Louraine, 390 Mass. 28, 453  
11 N.E.2d 437 (1983), are similar to the present case. In  
12 Louraine, the defendant was not taking antipsychotic  
13 medication at the time of the homicide, but while in custody,  
14 was receiving antipsychotic medication in various forms and  
15 doses, among which was Mellaryl. At trial, the defendant was  
16 under the influence of "heavy" or "maximum" dosages of  
17 Stelazine, another antipsychotic medication utilized for the  
18 management of the manifestations of psychotic disorders. Id.  
19 at 33, 453 N.E.2d at 441.

20 In Louraine, the Supreme Court of Massachusetts cited  
21 the "universally accepted rule that, when a defendant's  
22 sanity is at issue, the trier of fact is entitled to consider  
23 the defendant's demeanor in court." Id. at 34, 453 N.E.2d at  
24 442. The court further stated, "if the defendant appears  
25 calm and controlled at trial, the jury may well discount any  
26 testimony that the defendant lacked at the time of the crime,  
27 substantial capacity either to appreciate the wrongfulness of  
28

1 his conduct or to conform his conduct to the requirements of  
2 the law." Id. This appears to have occurred in the present  
3 case. DAVID RIGGINS looked apathetic and unemotional to the  
4 jurors. Therefore, they discounted testimony that he lacked  
5 the capacity at the time of the crime to appreciate the  
6 wrongfulness of his conduct. As a result, they sentenced him  
7 to DEATH by lethal injection, rather than providing him an  
8 opportunity for rehabilitation to overcome his mental  
9 illness.

10 According to the court in Matter of Orr 531 N.E.2d 73  
11 (Ill.App. 4 Dist. 1988), a recipient may refuse medication  
12 absent an emergency situation unless under the **parens patriae**  
13 doctrine he has been adjudicated incompetent in a separate  
14 proceeding. Defendant RIGGINS was never found incompetent,  
15 although he was examined on defense's request. He was placed  
16 on medication and then examined and found to be competent to  
17 stand trial.

18 DAVID RIGGINS had no control over the antipsychotic  
19 medication being administered to him because his Motion to  
20 Terminate the Administration of Medication was denied. He  
21 was medicated against his will. There is no doubt that his  
22 attitude, appearance and demeanor were affected by the  
23 medication.

24 When the state insists on the medication of the insanity  
25 defendant as a condition of his being "competent" to stand  
26 trial, such compulsory medication lightens the state's  
27 evidentiary burden at trial, making it easier for the state  
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1 to rebut the defendant's contention that he was insane at the  
2 time of the offense. This medication denies the defendant  
3 the evidence he needs to demonstrate convincingly his  
4 insanity, and deprives him of his right to be the master of  
5 his own fate, violating the basic constitutional precept of  
6 deference to personal autonomy. Fentiman, *Whose Right is it*  
7 *Anyway?: Rethinking Competency to Stand Trial in the Light of*  
8 *the Synthetically Sane Insanity Defendant.* 40 U. Miami L.Rev.  
9 1168 (1986).

10 During trial, DAVID RIGGINS was under the influence of  
11 800 milligrams of Mellaril per day. This medication violated  
12 his right to a "full and fair" trial by denying him the  
13 ability to assist in his defense, and by prejudicing his  
14 demeanor, appearance, and attitude to the jury.

15 The court's refusal of DAVID RIGGINS' Motion to  
16 Terminate the Administration of Medication, violated his  
17 right to a "full and fair" trial because the jury never saw  
18 his actual demeanor, which could have demonstrated his  
19 insanity. The overwhelming majority of case law supports  
20 this view.

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## **CONCLUSION**

The State of Nevada drugged defendant RIGGINS into an unnatural state of chemical competency. The trial court allowed the State to drug defendant RIGGINS against his will into zombie-like competency, thereby depriving him of his right to a full and fair trial. This court should reverse the court below, and remand this case to the trial court and order a new trial of DAVID RIGGINS in an unmedicated state.

Respectfully Submitted,

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